

# STATUTORY RULES

1967 No. /

REGULATIONS UNDER THE DEFENCE ACT 1903-1966.\*

**I** THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Defence Act* 1903-1966.

Dated this *fourteenth*

day of *December*, 1967.

**CASEY**

Governor-General.

By His Excellency's Command,

**MALCOLM FRASER**

Minister of State for the Army.

## AMENDMENTS OF THE AUSTRALIAN MILITARY REGULATIONS†

1. Regulations 2 and 8 of these Regulations shall be deemed to have come into operation on the thirty-first day of August, 1967. Commencement.

2. Regulation 2 of the Australian Military Regulations is amended by omitting the words— Sub-division of Regulations.

“Division 7.—Furlough—Pacific Islanders .. 481B-481C”

and inserting in their stead the following words:—

“Division 7A.—Furlough—Pacific Islanders .. 481B-481F”.

3. The Australian Military Regulations are amended by inserting after regulation 163 the following regulations:—

“164. The reduction of a soldier to a lower rank, to the ranks or in seniority in rank, in accordance with regulation 161 or regulation 163 of these Regulations, shall be effected by an order signed by or on behalf of the authority ordering the reduction. Order for reduction in rank.

“165.—(1.) Where a soldier has been reduced to a lower rank, to the ranks or in seniority in rank, in accordance with regulation 161 or 163 of these Regulations, the Military Board may review the reduction, and may cancel it if it appears that— Cancellation, &c., of reduction in rank.

(a) the circumstances do not show that the soldier was inefficient or unsuitable;

(b) the grounds stated in the notification to the soldier under sub-regulation (3.) of regulation 161 of these Regulations amounted to an allegation that the soldier had committed an offence with which he was not charged;

(c) in a case where the soldier has been convicted of an offence by a civil court, the offence was not sufficiently serious to justify the reduction; or

(d) for any other reason, the reduction should not have been made.

\* Notified in the *Commonwealth Gazette* on 1967.  
 † Statutory Rules 1927, No. 149, as amended to date. For subsequent amendments of the Australian Military Regulations see footnote † to Statutory Rules 1967, No. 13, and see also Statutory Rules 1967, Nos. 13 and 118.

"(2.) If, on a review under this regulation, the Military Board does not cancel a reduction under the last preceding sub-regulation but is of opinion that the reduction ordered is, in all the circumstances, too severe, it may order instead that the soldier be reduced to another rank or to another seniority in rank than that originally ordered.

"(3.) Where, in accordance with sub-regulation (1.) of this regulation, the Military Board cancels a reduction, the reduction shall thereupon be deemed to be void and of no effect.

"(4.) Where the Military Board orders under sub-regulation (3.) of this regulation that a soldier be reduced to another rank or to another seniority in rank than that originally ordered, the original reduction shall thereupon be deemed to be void and of no effect and the reduction ordered by the Military Board shall be deemed to have taken effect on the day on which the original reduction took effect or on any subsequent day directed by the Military Board.

"(5.) Nothing in this regulation affects the operation of regulation 194 of these Regulations."

4. Regulation 283 of the Australian Military Regulations is amended by omitting from the form in sub-regulation (7.) the words—

"dressed in (Military uniform)  
(Civilian clothes)"

Deserters, &c.,  
surrendering  
to or arrested  
by police  
within Com-  
monwealth  
or Territory,  
how dealt  
with.

5. Regulation 299 of the Australian Military Regulations is amended by inserting, before paragraph (a) of sub-regulation (2.), the following paragraph:—

"(aa) Rule of Procedure 4 shall be read as if for paragraph (I) there were substituted the following paragraph:—

'(I) The abstract of evidence shall consist of the statements or précis of statements of witnesses whose evidence (whether against or for the accused) was given or read before the commanding officer and statements of any other persons whose evidence appears to be relevant in relation to the charge. When the abstract of evidence is made, a copy of it shall be handed to the accused and he shall be cautioned in the following terms:—

"This is a copy of the abstract of evidence in your case; you are not obliged to say anything with regard to it unless you wish to do so, but you should read it and, when you have read it, if you wish to say anything, what you say will be taken down in writing and may be given in evidence."

Any statement made by the accused after he has read the abstract of evidence shall be taken down in writing and he shall be invited to sign it. This statement together with a certificate by the person who recorded the statement stating that the accused was duly cautioned in accordance with this Rule, shall be attached to the abstract of evidence and shall thereafter form part of it.'"

Modification  
of A.A. and  
R.P.—A.A.  
48 and 49;  
R.P. 4, 17,  
19, 22, 25,  
39A, 40, 103,  
103A and 106.

6. Regulation 387 of the Australian Military Regulations is amended by omitting sub-regulation (1.) and inserting in its stead the following sub-regulations:—

"(1.) In this regulation, 'service tribunal' means a court-martial and includes an officer of the Military Forces exercising jurisdiction summarily in respect of an offence alleged to have been committed by a member of the Military Forces.

"(1A.) The provisions of the *Evidence Act* 1905-1964 and the *State and Territorial Laws and Records Recognition Act* 1901-1954 apply to and in relation to proceedings before a service tribunal as if those provisions were included in

Modification  
of A.A. 128  
and R.P. 73  
(A).

these Regulations and, where applicable, as if references in those provisions to a court were references to a service tribunal and, notwithstanding A.A. 127, the provisions of A.A. 128 and R.P. 73(A) are, to the necessary extent, modified accordingly.”.

**7. Regulation 388 of the Australian Military Regulations is amended by omitting paragraphs (h) and (i) and inserting in their stead the following paragraph:—** Documentary evidence.

“(h) Where a member is charged with desertion or with absence without leave, a certificate purporting to be signed by the person by whom the member was arrested or taken into custody or to whom the member surrendered himself, whether the arrest, detention or surrender took place within or outside Australia, and containing a statement showing the date on which, and the time and place at which, the member was arrested or taken into custody by him or surrendered to him is evidence of the facts stated in the certificate without proof of the fact that it has been signed by the person by whom it purports to have been signed, and, if the certificate contains a description of the office or appointment held by the person by whom it purports to have been signed, the certificate is also evidence that that person holds that office or appointment.”.

**8. Regulation 478 of the Australian Military Regulations is amended by omitting sub-regulation (3.) and inserting in its stead the following sub-regulation:—** Furlough.

“(3.) Where a member who has rendered not less than fifteen years' service is retiring from the Military Forces, the Military Board may, in lieu of granting furlough to the member under sub-regulation (1.) of this regulation, authorize payment to the member, upon his retirement, of a sum not exceeding the amount of pay, for a period equal to the period of furlough on full pay which the member could have been granted under that sub-regulation.”.

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By Authority: A. J. ARTHUR, Commonwealth Government Printer, Canberra